

REMARKS/ARGUMENTS

Favorable reconsideration of this application as currently amended and in light of the following discussion is respectfully requested.

Claims 1, 6, 11, and 16 have been amended. With entry of this amendment, Claims 1-20 would be pending.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing Claims 1-20 in condition for allowance. Applicants respectfully point out that the Final Office Action presented some new grounds of rejection. It is respectfully submitted that the entering of this Amendment would allow Applicants to reply to the final rejections. To this end, Applicants submit that the entry of this Amendment would place the application in better form for appeal, should the patentability of the pending claims be denied based on the art now of record. No new matter is added.

The Final Office Action rejects Claims 1, 4-6, 9-11, 14-16, 19, and 20 under 35 U.S.C. § 102(e) as anticipated by Sharp, et al. (U.S. Patent No. 6,263,317, herein "Sharp"); and rejects Claims 2, 3, 7, 8, 12, 13, 17, and 18 under 35 U.S.C. § 103(a) as unpatentable over Sharp.

Rejection under 35 U.S.C. § 102(e)

In regard to the rejection of Claims 1, 4-6, 9-11, 14-16, 19, and 20 under 35 U.S.C. § 102(e) as anticipated by Sharp, Applicants traverse the rejection for the following reasons.

To establish anticipation of Claim 1 under 35 U.S.C. § 102(e), the Office Action must show that each and every feature recited in Claim 1 is either explicitly disclosed or necessarily present in Sharp.¹

¹ See MPEP § 2131.

Sharp discloses a web based system where customers can place orders for brand name products and then allocating orders to manufacturers, distributors and retailers according to distribution channel protocols defined by the manufacturers.²

The Final Office Action asserts that Sharp discloses all of the Applicants' claim limitations.

Amended Claim 1 recites a distribution management device comprising, *inter alia*, "order information receiving means for receiving via a network first order information of merchandise and second order information of said merchandise, the first order information being formed based on a first purchase request received via a first sales channel that uses the network and the second order information being formed based on a second purchase request received via a second sales channel that does not use the network."

Sharp does not disclose at least the above-mentioned subject matter of Claim 1. The Final Office Action cites col. 3, lines 7-39 of Sharp; however, the above-mentioned subject matter of Claim 1 is not disclosed here. In Sharp, "a customer using client computer 120 can access an e-commerce website hosted on server computer 110 via computer network 150."³ "Once the customer has entered and confirmed the order, a computer program executed on server computer 110 processes the order."⁴ "If the order is allocated to either a distributor or to the manufacturer, the order is transmitted to a distributor computer 140 or to a manufacturer computer 130 via a secure extranet communication link established over computer network 150."⁵ In other words, in Sharp, network 150 is used for both placing orders and transmitting the orders placed to either a distributor or a manufacturer. Nowhere does Sharp disclose or suggest order information receiving means for receiving via a network

² See Abstract and Fig. 1 of Sharp.

³ Col. 3, lines 7-9 of Sharp.

⁴ Col. 3, lines 20-22 of Sharp.

⁵ Col. 3, lines 32-36 of Sharp.

second order information of said merchandise, the first order information being formed based on a first purchase request received via a first sales channel that uses the network and the second order information being formed based on a second purchase request received via a second sales channel that does not use the network, as recited in Claim 1.

Accordingly, Applicants submit that Claim 1, as amended, is patentable and the rejection of Claim 1 under 35 U.S.C. § 102(e) should be withdrawn. Independent Claims 6, 11, and 16, although of different scope and/or statutory class, include features similar to those in Claim 1 discussed above. Claims 4, 5, 9, 10, 14, 15, 19 and 20 depend from Claims 1, 6, 11, or 16. Thus, Applicants respectfully request that the rejection of Claims 4-6, 9-11, 14-16, 19, and 20 under 35 U.S.C. § 102(e) be withdrawn as well.

Rejection under 35 U.S.C. § 103(a)

The Final Office Action rejects Claims 2, 3, 7, 8, 12, 13, 17, and 18 under 35 U.S.C. § 103(a) as unpatentable over Sharp. Applicants respectfully traverse the rejection.

To establish a prima facie case of obviousness under 35 U.S.C. § 103(a), each of three requirements must be demonstrated. First, Sharp must teach or suggest each and every element recited in the claim.⁶ Second, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference in a manner resulting in the claimed invention.⁷ Third, a reasonable probability of success must exist with respect to the proposed modification relied upon in the rejection.⁸

⁶ See MPEP § 2143.

⁷ See *id.*

⁸ See *id.*

The Office Action asserts that Sharp teaches “all of the limitations of the claims” except “the step of stopping the supply of merchandise due to the sales debut of a new product.”⁹ Applicants respectfully disagree.

Claims 2, 3, 7, 8, 12, 13, 17, and 18 depend on Claims 1, 6, 11; or 16. As discussed above with respect to Claims 1, 6, 11, and 16, Sharp does not teach or suggest each and every element recited in Claims 1, 6, 11, and 16. For example, Sharp does not teach or suggest at least order information receiving means for receiving via a network first order information of merchandise and second order information of said merchandise, the first order information being formed based on a first purchase request received via a first sales channel that uses the network and the second order information being formed based on a second purchase request received via a second sales channel that does not use the network, as recited in Claim 1 and as similarly recited in Claims 6, 11, and 16.

In view of the failure of Sharp to teach or suggest all features of Claims 1, 6, 11, and 16, Applicants submit that Sharp does not render Claims 1, 6, 11, and 16 obvious under 35 U.S.C. § 103(a). Since Claims 2, 3, 7, 8, 12, 13, 17, and 18 depend on Claims 1, 6, 11, or 16, Applicants respectfully request that the rejection of Claims 2, 3, 7, 8, 12, 13, 17, and 18 under 35 U.S.C. § 103(a) be withdrawn and Claims 2, 3, 7, 8, 12, 13, 17, and 18 be allowed.

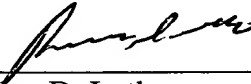
⁹ Office Action, pages 8-9.

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Accordingly, in view of the foregoing amendments and remarks, it is respectfully submitted that the present application, including Claims 1-20, is patentably distinguished over the prior art, is in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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